



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 23, 1998

Mr. Michael G. Mask  
County Attorney  
Third Floor  
Jack County Court House  
Jacksboro, Texas 76458

OR98-0242

Dear Mr. Mask:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112423.

The Jack County Attorney's Office ("your office") received an open records request for twenty categories of information pertaining to traffic law enforcement. You inform us that your office is not the custodian of records for many of the requested documents. It is well established that the Open Records Act does not require a governmental body to obtain information not in its possession or to prepare new information in response to a requestor. Open Records Decision No. 445 (1986). *But see* Open Records Decision No. 317 (1982) (fact that information originally generated by another entity not relevant to determination of whether it is covered by Open Records Act while possessed by governmental body). To the extent that the open records request seeks records not within your office's possession, you need not comply with the request.

With regard to those requested records that your office does possess, we conclude that those records must be released in their entirety. Under the Open Records Act, all information held by governmental bodies is open unless it falls within one of the act's specific exception to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. Attorney General Opinion H-436 (1974). If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. *See* Attorney General Opinion JM-672 (1987). The act does not require that this office raise and consider exceptions that you have not raised.

Because you have raised none of the act's exceptions with regard to the requested documents as required by section 552.301(a) of the Government Code, we conclude that those requested records that are held by your office are presumed to be public and therefore must be released to the requestor in their entirety. *See* Gov't Code § 552.302.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Karen Hattaway". The signature is written in a cursive, flowing style.

Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/RWP/rho

Ref.: ID# 112423

cc: Mr. J.D. Davis  
Director  
American Drivers Association  
200 Gate Way Center, Suite 326  
Liberty City Texas 75662